THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11076 OF 2006

21.06.2006

Between:

A.V.Roseswara Rao, S/o.Rama Subba Rao

And others

… Petitioners

AND

The District Collector, Ranga Reddy, Hyderabad

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11076 OF 2006

ORDER:

The sixth petitioner is the owner of land admeasuring Acs.4.00 in survey No.464 situated at Maheswaram Village and Mandal in Ranga Reddy District. The petitioners 1 to 4 herein purchased an extent of Acs.2.00 from the sixth petitioner under registered sale deed dated 03.5.2006. Subsequently, the fifth petitioner is entered into an agreement of sale with the sixth petitioner for purchase of remaining Acs.2.00 of land. The sixth petitioner made an application to the Mandal Revenue Officer, Maheswaram (MRO) for mutation of his name and by order dated 02.11.2005 in Proceedings No.3098/2005, the third respondent ordered necessary changes to be carried out in the Record of Rights (RoR) showing the sixth petitioner as the owner of the land. The second respondent at the instance of the fourth respondent *suo moru* took up enquiry purportedly under the provisions of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity), and while setting aside the mutation granted to the sixth petitioner, directed the third respondent to conduct enquiry and pass appropriate orders. The said order was passed on 08.3.2006. Thereafter the third respondent by proceedings dated 28.3.2006 amended the RoR in favour of the fourth respondent. The order of the Revenue Divisional Officer

(RDO) is therefore assailed in the writ petition. As the learned Counsel for the petitioners mainly raised only ground that the impugned order was issued without notice to the petitioners, this Court thought it fit to dispose of the matter at the admission stage. Therefore, notice was ordered to the fourth respondent. After receiving the notice, the fourth respondent appeared through Counsel.

Learned Counsel for the petitioners, Ms.Udaya Sree, submits that even if the RDO is competent to revise the entries in the RoR under Rule 13(2) of A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity), such revision cannot be ordered unless an opportunity is given to the person whose name is entered in the RoR. She would urge that when the name of the vendor of the petitioners 1 to 5 is already entered in the RoR as owner, the RDO could not have passed the impugned order in violation of principles of natural justice. She therefore contends that the impugned order is void. **Per contra**, the learned Counsel for the fourth respondent, Sri T.S.Praveen Kumar, submits that the fourth respondent has purchased the property under registered sale deeds executed in January 2005 and September 2005, but without notice to the fourth respondent the MRO initially ordered amendments/changes in the RoR in favour of the sixth petitioner and, therefore, the impugned order does not warrant any interference. He however does not dispute that no notice was issued either by the RDO or MRO before revising the entries in the RoR.

There cannot be any dispute that there is no provision in the Act conferring *suo motu* powers on the appellate authority, namely, the RDO. However, under Section 9 of the Act, it shall be competent to the Collector (Joint Collector) to call for and examine the record of any recording authority, MRO or RDO under Sections 3, 5, 5A or 5B of the Act in respect of any RoR to satisfy himself as to the regularity, correctness, legality or propriety and modify, annul or reverse such decision of the lower authority. The RDO has no such *suo motu* powers to initiate enquiry. Rule 13(2) of the Rules however confers *suo motu* powers on the MRO, RDO, Deputy Collector, District Revenue Officer and Collector of the District to revise the entries after giving an opportunity to the person whose name is entered in RoR after making a revision in that behalf. Even if it is assumed that the RDO has taken up the matter under Rule 13(2) of the Rules or under Section 5(5) of the Act, there could not have been any enquiry by respondents 2 and 3 without notice to sixth petitioner or petitioners 1 to 5, who purchased the property from the sixth petitioner. As the third respondent ordered the amendment of RoR in favour of the fourth respondent without notice to the petitioners, the same is unsustainable being void.

In view of the above, the impugned orders are set aside. The matter is remitted to the Mandal Revenue Officer, Maheswaram, with a direction to issue notice to all the petitioners and fourth respondent as well as other persons, who are interested in the matter, conduct a detailed enquiry and pass appropriate orders within eight weeks from today. It is needless to point out that if there is any title dispute, the MRO cannot decide the matter and the parties have to approach the Civil Court under Section 8(2) of the Act.

The writ petition, for the above reasons, is allowed. No costs.

_____

(**V.V.S.RAO, J**)

June 21, 2006

NOTE:

Dispatch order copy within

Three (3) days.

(By order)

YS